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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,205	09/30/2003	Boris Ginzburg	P-6067-US	9613
49443 7590 11/02/2007 PEARL COHEN ZEDEK LATZER, LLP 1500 BROADWAY 12TH FLOOR NEW YORK, NY 10036			EXAMINER BRANDT, CHRISTOPHER M	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 11/02/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/673,205

Applicant(s)

GINZBURG ET AL.

Examiner

Christopher M. Brandt

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-17 and 19-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-17 and 19-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 13, 2007 has been entered.

### ***Response to Amendment***

This Action is in response to applicant's amendment filed on August 13, 2007. **Claims 1-3, 6-17, 19-27** are currently pending in the present application.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-3, 6-17, 19-27 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 1, 6-11, 14, 16, 17, 19-22, 24, 25, and 27** are rejected under 35 USC 103(a) as being unpatentable over **Koorapaty et al. (US PG PUB 2002/0082010 A1, hereinafter Koorapaty)** in view of **Sarikaya et al. (US PG PUB 2005/0036510 A1, hereinafter Sarikaya)** and further in view of **Hassan et al. (US PG PUB 2003/0022670 A1, hereinafter Hassan)**.

Consider **claim 1 (and similarly applied to claims 11, 19, 22, and 25)**. Koorapaty discloses a method of scanning channels on a station, the method comprising:

selecting a plurality of channels from a list comprising channels to which the station has in the past connected, wherein each of said past connected channels has past connection data associated therewith, and wherein said selecting comprises determining which of said past connected channels were connected to within said current area (figures 5f, 11, paragraphs 51, 72, 73, 165-167, read as a wireless terminal that scans a plurality of communication channels in an attempt to communicate with a service provider. In addition, Koorapaty also discloses a DCCH (Digital Control Channel) history table stores control channels recently camped on by the

wireless terminal, and the DHT scan 204 searches those channels for service (i.e. selecting, since the table store channels to scan)); and

scanning said selected channels according to said past connection data (paragraph 51, read as the DHT scan searches those channels that were recently camped on by the wireless terminal).

Koorapaty discloses the claimed invention but fails to disclose determining a current area where the station is currently situated.

However, Sarikaya discloses determining a current area where the station is currently situated (paragraph 38, read as the tracking agent determines, such as by accessing the cache, the paging area in which the mobile station is most recently positioned).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the teachings of Sarikaya into the invention of Koorapaty in order to determine throughout which areas that the page is to be broadcast (paragraph 17).

In addition, Koorapaty and Sarikaya fail to disclose a scanning order.

However, Hassan discloses a scanning order (paragraphs 6-8, 41 table 5, 47, 53, read as the mobile terminals perform scanning for channels seeking the highest priority service provider. If a mobile terminal finds a service provider with a higher priority than a current service provider or forbidden service provider, the mobile terminal adds the found service provider's information in a list so that the mobile terminal can access higher priority service provider and skip the forbidden service provider).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the teachings of Hassan into the invention of Koorapaty and Sarikaya to include the scanning of wireless channels in a particular scanning order as disclosed by for the purpose of providing continuous communication without interruption (paragraph 6).

Consider **claim 6 and as applied to claim 1**. Koorapaty, Sarikaya, and Hassan disclose identifying a channel with which to connect from said selected channels (Koorapaty; paragraph 68).

Consider **claim 7 and as applied to claim 6**. Koorapaty, Sarikaya, and Hassan disclose wherein said identifying comprises evaluating a quality of transmission of at least one of said selected channels (paragraph 68).

Consider **claim 8 and as applied to claim 1**. Koorapaty, Sarikaya, and Hassan disclose updating said past connection data based on said scanning (Koorapaty; paragraph 69, Hassan; paragraph 53).

Consider **claim 9 and as applied to claim 1**. Koorapaty, Sarikaya, and Hassan disclose updating a list of service sets with service sets that are identified during said scanning (Koorapaty; paragraph 69, Hassan; paragraph 53).

Consider **claim 10 and as applied to claim 1**. Koorapaty, Sarikaya, and Hassan disclose updating said scanning order based on data collected during said scanning (Koorapaty; paragraph 73, Hassan; paragraph 41, table 5).

Consider **claim 14 and as applied to claim 11**. Koorapaty, Sarikaya, and Hassan disclose wherein said memory is to store data about channels used for transmissions with at least one service set (Koorapaty; paragraph 167).

Consider **claim 16 and as applied to claim 11**. Koorapaty, Sarikaya, and Hassan disclose wherein said processor is to select an access point with which to connect based on a quality of transmission with said access point (Koorapaty; paragraph 73).

Consider **claim 17 and as applied to claim 11**. Koorapaty, Sarikaya, and Hassan disclose wherein said processor is to update said past connection data based on said scanning (Koorapaty; paragraph 73, Hassan; paragraph 41, table 5).

Consider **claim 20 and as applied to claim 19**. Koorapaty, Sarikaya, and Hassan disclose wherein said execution of said instructions further results in updating said past connection data based on said scanning (Koorapaty; paragraph 69, Hassan; paragraph 53).

Consider **claim 21 and as applied to claim 19**. Koorapaty, Sarikaya, and Hassan disclose wherein said execution of said instructions further results in updating said scanning order based on data collected during said scanning (Koorapaty; paragraph 73, Hassan; paragraph 41, table 5).

Consider **claim 24 and as applied to claim 22**. Koorapaty, Sarikaya, and Hassan disclose wherein said processor is to update said past connection data based on said scanning (Hassan; paragraph 53).

Consider **claim 27 and as applied to claim 25**. Koorapaty, Sarikaya, and Hassan disclose wherein said processor is to update said past connection data based on said scanning (Hassan; paragraph 53).

**Claims 2, 3, 12, 13, 15, 23, and 26** are rejected under 35 USC 103(a) as being unpatentable over **Koorapaty et al. (US PG PUB 2002/0082010 A1, hereinafter Koorapaty)** in view of **Sarikaya et al. (US PG PUB 2005/0036510 A1, hereinafter Sarikaya)** in view of **Hassan et al. (US PG PUB 2003/0022670 A1, hereinafter Hassan)** and further in view of **Barber et al. (US PBPUG 2005/0073979 A1, hereinafter Barber)**.

Consider **claim 2 and as applied to claim 1**. Koorapaty, Sarikaya, and Hassan the claimed invention but fail to explicitly disclose identifying a basic service set located in said determined current area.

However, Barber discloses identifying a basic service set located in said determined current area (paragraph 46).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the teachings of Barber into the invention of Koorapaty, Sarikaya, and Hassan in order to provide efficient transmission and reception of data between mobile and portable user computer devices (paragraph 3).

Consider **claim 3 and as applied to claim 2**. Koorapaty, Sarikaya, and Hassan disclose the claimed invention but fail to explicitly disclose wherein said identifying comprises assuming said station has recently connected to said basic service set.

However, Barber discloses wherein said identifying comprises assuming said station has recently connected to said basic service set (paragraph 46).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the teachings of Barber into the invention of



Koorapaty, Sarikaya, and Hassan in order to provide efficient transmission and reception of data between mobile and portable user computer devices (paragraph 3).

Consider **claim 12 and as applied to claim 11**. Koorapaty, Sarikaya, and Hassan disclose the claimed invention but fail to explicitly teach wherein said processor is to detect a service set and select at least one channel used for transmissions with said service set (Koorapaty; paragraph 73).

However, Barber discloses wherein said processor is to detect a service set and select at least one channel used for transmissions with said service set (paragraph 46).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the teachings of Barber into the invention of Koorapaty, Sarikaya, and Hassan in order to provide efficient transmission and reception of data between mobile and portable user computer devices (paragraph 3).

Consider **claim 13 and as applied to claim 11**. Koorapaty, Sarikaya, and Hassan disclose the claimed invention but fail to explicitly teach wherein said processor is to detect a basic service set operating in said determined current area and select at least one channel used for transmissions with said basic service set (Koorapaty; paragraphs 73, 165-167, Sarikaya; paragraph 38).

However, Barber teaches wherein said processor is to detect a basic service set operating in said determined current area and select at least one channel used for transmissions with said basic service set (paragraph 46).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the teachings of Barber into the invention of

Koorapaty, Sarikaya, and Hassan in order to provide efficient transmission and reception of data between mobile and portable user computer devices (paragraph 3).

Consider **claim 15 and as applied to claim 11**. Koorapaty, Sarikaya, and Hassan disclose the claimed invention but fail to explicitly teach wherein said memory is to store data about transmitters in the current area of a basic service set.

However, Barber teaches wherein said memory is to store data about transmitters in the current area of a basic service set (paragraph 46).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the teachings of Barber into the invention of Koorapaty, Sarikaya, and Hassan in order to provide efficient transmission and reception of data between mobile and portable user computer devices (paragraph 3).

Consider **claim 23 and as applied to claim 22**. Koorapaty, Sarikaya, and Hassan disclose the claimed invention but fail to explicitly disclose wherein said processor is to detect a service set operating in said current area and select at least one channel used for transmissions with said service set.

However, Barber discloses wherein said processor is to detect a service set operating in said current area and select at least one channel used for transmissions with said service set (paragraph 46).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the teachings of Barber into the invention of Koorapaty, Sarikaya, and Hassan in order to provide efficient transmission and reception of data between mobile and portable user computer devices (paragraph 3).

Consider **claim 26 and as applied to claim 25**. Koorapaty, Sarikaya, and Hassan disclose the claimed invention but fail to explicitly disclose wherein said processor is used to detect a service set operating in said determined current area and select at least one channel used fro transmissions with said service set.

However, Barber discloses wherein said processor is used to detect a service set operating in said determined current area and select at least one channel used fro transmissions with said service set (paragraph 46).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the teachings of Barber into the invention of Koorapaty, Sarikaya, and Hassan in order to provide efficient transmission and reception of data between mobile and portable user computer devices (paragraph 3).

#### ***Conclusion***

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents  
P.O. Box 1450  
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**Hand-delivered responses** should be brought to

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Brandt whose telephone number is (571) 270-1098. The examiner can normally be reached on 7:30a.m. to 5p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on (571) 272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.



Christopher M. Brandt

C.M.B./cmb

October 25, 2007



**WILLIAM TROST**  
**SUPERVISORY PATENT EXAMINER**  
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